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21 **UNITED STATES DISTRICT COURT**

22 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

23 CISCO SYSTEMS, INC.,

24 Plaintiff,

25 vs.

26 ARISTA NETWORKS, INC.,

27 Defendant.

28 CASE NO. 5:14-cv-5344-BLF (NC)

29 **DECLARATION OF SARA E. JENKINS
IN SUPPORT OF CISCO'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL CONFIDENTIAL
INFORMATION IN CISCO'S RESPONSE
TO ARISTA'S BRIEF RE ANALYTIC
DISSECTION**

30 02099-00004/8564737.1

31 DECLARATION OF SARA E. JENKINS IN SUPPORT OF CISCO'S
32 ADMINISTRATIVE MOTION TO FILE UNDER SEAL
33 Case No. 5:14-cv-05344-BLF (NC)

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2 **DECLARATION OF SARA E. JENKINS**
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I, Sara E. Jenkins, declare as follows:

1 **1.** I am an attorney licensed to practice in the State of California and am admitted to
2 practice before this Court. I am an associate with the law firm Quinn Emanuel Urquhart &
3 Sullivan, LLP, counsel for Plaintiff Cisco Systems, Inc. (“Cisco”). I have personal knowledge of
4 the matters set forth in this Declaration, and if called as a witness I would testify competently to
5 those matters.

6 **2.** I make this declaration in support of Cisco’s Motion to File Under Seal
7 Confidential information filed connection with Cisco’s Response to Arista’s Brief re Analytic
8 Dissection. I make this declaration in accordance with Civil Local Rule 79-5(d)(1)(A).

9 **3.** Cisco’s responsive brief is non-dispositive. In this context, materials may be sealed
10 so long as the party seeking sealing makes a “particularized showing” under the “good cause”
11 standard of Federal Rule of Civil Procedure 26(c). *Kamkana v. City and Cnty. of Honolulu*, 447
12 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331
13 F.3d 1122, 1138 (9th Cir. 2003)). In addition, Civil Local Rule 79-5 requires that a party seeking
14 sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade
15 secret or otherwise entitled to protection under the law” (*i.e.*, that the document is “sealable”).
16 Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of
17 sealable material.” *Id.*

18 **4.** Pursuant to Civil L.R. 79-5(e), good cause exists to seal the documents identified in
19 the Sealing Motion as containing Cisco’s confidential information, also set forth below, because
20 the information sought to be sealed reflects confidential information that “give[s] [Cisco] an
21 opportunity to obtain an advantage over competitors who do not know or use it.” *In re Elec. Arts,*
22 *Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008) (quoting *Restatement of Torts* § 757, cmt b):

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Document	Portions to Be Filed Under Seal	Party With Claim of Confidentiality
Cisco's Response to Arista's Brief re: Analytic Dissection	Highlighted Portions	Arista
Exhibit 1 to the Declaration of John M. Neukom (November 20, 2015 excerpt of deposition transcript of Kirk Lougheed)	Entire	Cisco
Exhibit 2 to the Declaration of John M. Neukom (March 17, 2016 excerpt of the deposition transcript of the Anshul Sadana)	Entire	Arista

5. Exhibit 1 to the Neukom Declaration is an excerpt of the November 20, 2015 deposition transcript of Kirk Lougheed which was designated as "Highly Confidential – Attorneys' Eyes Only." Cisco seeks to seal this exhibit because these portions of the transcript contain confidential information about Cisco's product development and architecture. As such, there is good cause to seal the highlighted portions of these paragraphs. *See Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) ("highly sensitive information regarding [a party's] product architecture and development" are sealable under the heightened standard for dispositive motions.)

6. Cisco also filed this Motion to Seal to provide Arista with the opportunity to file a declaration supporting the sealing of the documents described above.

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct, and that this declaration was executed in Redwood Shores,
3 California, on November 14, 2016.

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5 */s/ Sara E. Jenkins*
6 Sara E. Jenkins

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DECLARATION OF SARA E. JENKINS IN SUPPORT OF
CISCO'S ADMINISTRATIVE MOTION TO FILE UNDER SEAL

1
2 **SIGNATURE ATTESTATION**
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4 Pursuant to Civ. L.R. 5-1(i)(3), the undersigned hereby attests under penalty of perjury that
5 concurrence in the filing of this document has been obtained from the signatory indicated by the
6 "conformed" signature (/s/) of registered ECF User Sara E. Jenkins.
7
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9 Dated: November 14, 2016

10 _____
11 /s/ *John M. Neukom*
12 John M. Neukom
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